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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,869	08/28/2006	Ari Kamijo	D4933-00025	1418
8933	7590	09/03/2008		
DUANE MORRIS LLP - Philadelphia			EXAMINER	
IP DEPARTMENT			GOOD JOHNSON, MOTILEWA	
30 SOUTH 17TH STREET				
PHILADELPHIA, PA 19103-4196			ART UNIT	PAPER NUMBER
			2628	
			MAIL DATE	DELIVERY MODE
			09/03/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/590,869	KAMIJO, ARI	
	<b>Examiner</b>	<b>Art Unit</b>	
	M GOOD JOHNSON	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 August 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 06/07/07.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-4 recite the limitation of an image processing program. A program is non-statutory subject matter in that it fails to fall within one of four statutory categories.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakayama, U.S. Patent Publication 2003/0139209.

Regarding claim 1, Nakayama discloses an image processing program for executing processing on a computer, comprising at least: a step outputting an

operation speed and an operation direction based on operation information of an operated object (paragraphs 0049-0050); a step calculating a reproduction speed of an live-action moving background image based on an image taking direction component of the operation speed (paragraph 0050); a step creating a visual point transformed background image in which a visual point of a background image read out based on the reproduction speed is transformed from a visual point in which a display position of the operated object becomes a predetermined position (paragraph 0064); and a step superimposing the operated object on the visual point transformed background image (paragraph 0064).

Regarding claim 2, Nakayama discloses an image combination step combining background images between next one of a background image read out from the moving background image for previous display and a background image read out for display at this time to output as a single background image (paragraph 0052, mobile bodies of the horses, which Examiner interprets as background images combined with the standard running route and read out at a time to display as a single background image).

Regarding claim 3, Nakayama discloses wherein said steps are applied to a race game (paragraph 0097).

Regarding claim 4, Nakayama discloses a computer readable recording medium recording the image processing program according to any one of claim 1 to claim 3 (paragraph 0038).

Regarding claim 5, Nakayama discloses an image processing apparatus, comprising at least: an operation information outputting means for outputting an operation speed and an operation direction based on operation information of an operated object (figures 4A and 4B); a reproduction speed calculating means for calculating a reproduction speed of a live-action moving picture background image based on an image taking direction component of the operation speed (figure 4A); a visual point transforming means for creating a visual point transformed background image in which a visual point of a background image read out based on the reproduction speed is transformed from a visual point in which a display position of the operated object becomes a predetermined position (figure 5); and a superimposing means for superimposing the operated object on the visual point transformed background image (figures 8A-8F).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M GOOD JOHNSON whose telephone number is (571)272-7658. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Motilewa Good-Johnson/  
Primary Examiner  
Art Unit 2628

mgj